



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1051 of 2021

V.Saravanan

... Petitioner

Vs.

1. The Director,
Town and Country Planning,
No.807, Anna Salai,
Chennai.
2. The Member Secretary,
Madurai Local Planning Authority,
Corporation Officer Building,
Anna Maligai, Madurai.
3. The Madurai Corporation,
Rep. by its Commissioner,
Corporation Buildings,
Tallakulam,
Madurai - 625 002.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the reservation made in respect of the petitioner's land in Re-Survey No.147/2, UDR Sy.No.6/2, Plot No.34, Thiruppalai Group, Sirudhur Village, Madurai North Taluk, forming part of Sirudhur Detailed Development Plan Part-I to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act 1971 (Tamil Nadu Act 35 of 1972).

For Petitioner	: Mr.N.Dilip Kumar
For R-1 & R-2	: Mr.G.Arjunan, Government Advocate.

For R-3	: Mr.R.Murali
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O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Government Advocate appearing for respondents 1 and 2 and the learned Standing counsel appearing for the third respondent.



2. The petitioner is the owner of the petition mentioned lands. They were covered by the detailed development scheme that was published in the year 1999. The petition mentioned lands were shown earmarked as scheme road. But then, the follow-up acquisition proceedings were not initiated. In these circumstances, as rightly contended by the learned counsel appearing for the writ petitioner, Section 38 of THE TAMIL NADU TOWN AND COUNTRY PLANNING ACT, 1971 will come into play. The said provision reads as under:-

"38. Release of land.- If within three years from the date of the publication of the notice in the Tamil Nadu Government Gazette under section 26 or section 27-

(a) no declaration as provided in sub-section (2) of section 37 is published in respect of any land reserved, allotted or designated for any purpose specified in a regional plan, master plan, detailed development plan or new town development plan covered by such notice; or

(b) such land is not acquired by agreement, such land shall be deemed to be released from such reservation, allotment or designation."

3. The learned counsel appearing for the respondents have obtained written instructions. But then, the averments set out in the affidavit filed in support of this writ petition could not be controverted.

4. The case on hand is covered by a catena of decisions. One such order has been enclosed at page No.13 of the typed set of papers (i.e.,) order dated 07.06.2018 in W.P.(MD)No.4764 of 2018(A.Balu V. The Director of Town and Country Planning, Chennai). The said order pertains to the very same scheme.

5. Applying the aforesaid statutory provision and in the light of the aforesaid order of this Court, this Court declares that reservation in respect of the petition mentioned land stands lapsed.

6. This writ petition stands allowed. No costs.

Sd/-

Assistant Registrar(CO)

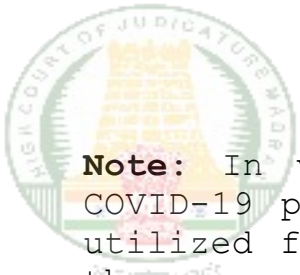
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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Director,
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Chennai.
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Anna Maligai, Madurai.
3. The Commissioner,
Madurai Corporation,
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Madurai - 625 002.

+1 CC to M/s.R.MURALI, Advocate (SR-3179[F] dated 04/02/2021)
+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-3163[F] dated 03/02/2021
+1 CC to M/s.GP (SR-3307[F] dated 04/02/2021)

W.P. (MD) No.1051 of 2021
03.02.2021

MJ(CO)
TR(09.02.2021) 3P 7C